

## **MINUTES**

**TENNESSEE SOLID WASTE DISPOSAL CONTROL BOARD MEETING  
RUTH NEFF CONFERENCE ROOM  
17<sup>TH</sup> FLOOR, L & C TOWER  
401 CHURCH STREET  
NASHVILLE, TENNESSEE**

**NOVEMBER 13, 2003**

**Board Members Present:**

Mr. Charles Crow  
Mr. J. P. Newman, Chairman  
Mr. Jack O'Grady  
Mr. Robert Waddell  
Mr. Bob Whetsel  
Mr. Glenn Youngblood  
David Wallace  
Mike Apple

**Board Members Absent:**

Mr. Ken Pointer  
Mr. Dave Kirk  
Dr. Greg Nail  
Mr. Wilton Burnett

A special called meeting by Attorney Max Fleischer was called to order by Chairman Phil Newman at 10:05 a.m. After noting that a quorum was present, Mr. Newman welcomed the board members and guests.

1. **Solid Waste Disposal Control Board Matters**

The minutes from the October 7, 2003, had not been completed at this time.

2. **Agreed/Consent Orders**

**Closure Plan for a gypsum dumpsite in the city of Lafayette, for L. R. D., Inc.  
(Estate of William J. Donoho), Bruce Hunter and Morris Parks, SWM Case 03-  
0004, Macon County**

Attorney Max Fleischer explained this special meeting was called due to urgency to resolve the problem of runoff coming from the crushed gypsum board before the beginning of bad weather. The Respondents, LRD, Inc. (the estate of William H. Donoho), Bruce Hunter and Morris Parks requested the penalty assessed in the March 11, 2003 Order and Assessment, be reduced and/or modified as the Respondents state they are unable to pay. As the removal of the crushed gypsum would be extremely costly, the Respondents would like to close the site in place in a manner that would be protective of the environment.

Based on the Respondent's estimate of costs, the Respondent's alleged inability to pay such costs and the Division's desire to have the gypsum board issue resolved as expeditiously as possible to protect human health and the environment, the Division and Respondents have agreed subject to the Board's approval that the crushed gypsum board could be closed in place as set out on pages 4-6 of the Agreed Order.

Penalties were assessed against the City of Lafayette, but the City is not a party to this Agreed Order. It should be noted that the City of Lafayette will be providing the dirt for the implementation of the closure plan.

As stipulated in the Agreed Order, L. R. D., Inc. (the Estate of William H. Donoho), Hunter and Parks have demonstrated an inability to pay civil penalties in addition to their contributions to the implementation of the closure plan. The parties are paying \$37,000.00 to a contractor to implement the regrading of the gypsum board and the closure of the material in place. The Estate of Donoho and L R. D., Inc. are paying

\$12,333.00. Parks and Hunter are contributing \$12,333.00 each to the implementation of the closure plan. The parties are also contributing to pay the \$1,548.14 in damages.

The Agreed Order does provide for one hundred fifty thousand dollars in penalties only for the failure to comply with its terms.

After brief discussion, Mr. Youngblood made the motion to accept this Agreed Order and Mr. Wallace seconded it. The motion passed unanimously by voice vote.

Mr. Crow suggested the Board Members be sent any information regarding Orders or Agreed Orders as soon as possible, as it is a disadvantage to read and fully understand them when they are presented shortly before a vote is to be taken. Mr. Fleischer expressed his concern that no discussion regarding the orders takes place between Board Members before the Board Meeting. Mr. Newman suggested Mr. Fleischer consult with his General Counsel, Mr. Joe Sanders, as to the proper procedure to be followed.

Mr. Newman asked if there was further business; hearing none, he asked for a motion to adjourn. Mr. Youngblood made the motion and Mr. Wallace seconded it. The motion carried by voice vote. The meeting was adjourned at 10:41 am.

**SUBMITTED BY:**

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**Mike Apple, Technical Secretary**

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**Date**

**APPROVED BY:**

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**J.P. Newman, Chairman**  
**Solid Waste Disposal Control Board**

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**Date**

